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## Proposed Regulation Agency Background Document

<b>Agency name</b>	Board of Housing and Community Development
<b>Virginia Administrative Code (VAC) citation</b>	13 VAC 5-31
<b>Regulation title</b>	Virginia Amusement Device Regulations
<b>Action title</b>	Update and Amend the Virginia Amusement Device Regulations
<b>Document preparation date</b>	July 15, 2004

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 21 (2002) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

### Brief summary

*In a short paragraph, please summarize all substantive changes that are being proposed in this regulatory action.*

The Virginia Amusement Device Regulations (VADR) incorporates nationally recognized standards for the construction and operation of amusement devices, which include ski-lifts. The standards for typical amusement devices are written by the American Society for Testing and Materials, or ASTM, and are updated periodically. The standards for ski-lifts are written by the American National Standards Institute, or ANSI, and are also updated periodically. As the other building and fire regulations promulgated by the Board of Housing and Community Development are based on nationally recognized standards which are updated at the national level every three years, the Board reviews all of its regulations on a three year cycle to update the regulations to the newest national codes and standards. Of the ASTM standards used in the VADR for typical amusement devices, two have newer versions at this time and the proposed regulation references the newer standards. In addition, a newer version of the ANSI standard for ski-lifts is available at this time and the proposed regulation references the newer standard.

Preliminary review of the newer ASTM standards indicates that the scope of one of them (ASTM F 1159-03a) now clearly includes rock climbing walls and air-supported structures by listing those devices in the title of the standard. However, there do not appear to be changes in the text of the standard itself which require any additional safeguards for rock climbing walls or air-supported structures. In addition, preliminary review of the other newer standards incorporated in this action did not identify substantive changes between the newer standards and those standards used in the existing regulation.

As the VADR is a companion regulation to the other building and fire regulations promulgated by the Board and needs to be coordinated with those regulations, and since the other building and fire regulations of the Board are concurrently undergoing regulatory actions to reference the newest available nationally recognized model codes and standards, the Board is therefore accepting comment on all provisions of this regulation.

**Legal basis**

*Please identify the state and/or federal legal authority to promulgate this proposed regulation, including (1) the most relevant law and/or regulation, including Code of Virginia citation and General Assembly chapter number(s), if applicable, and (2) promulgating entity, i.e., the agency, board, or person. Describe the legal authority and the extent to which the authority is mandatory or discretionary.*

The statutory authority to update the regulation is contained in § 36-98.3 of the Code of Virginia. The promulgating agency is the Board of Housing and Community Development. As the regulation is a companion to the Virginia Uniform Statewide Building Code, state law does require the Board to keep the regulation up to date.

**Purpose**

*Please explain the need for the new or amended regulation by (1) detailing the specific reasons why this regulatory action is essential to protect the health, safety, or welfare of citizens, and (2) discussing the goals of the proposal and the problems the proposal is intended to solve.*

The reason this regulatory action is essential to protect the health, safety and welfare of the citizens of the Commonwealth is that without the building and fire regulations of the Board of Housing and Community Development being kept up-to-date by using the latest editions of the nationally recognized model codes and standards and without the correlation of this regulation with the other building and fire regulations of the Board, the protection of the health, safety and welfare of Virginia’s citizens is not assured since conditions which need to be regulated are not. In addition, where a condition which was previously determined in the nationally recognized codes and standards to need to be regulated is addressed less restrictively in the newest model codes and standards, there would be the risk of exposing Virginia’s citizens to unnecessary regulations.

The goals of the regulatory action and problems the regulatory action will solve are the same as the reason the regulatory action is essential to protect the health, safety and welfare of the citizens of the Commonwealth. Without keeping the codes up-to-date, there is the potential for not regulating necessary conditions, or over-regulating conditions determined to be less necessary of regulation.

**Substance**

*Please briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. (More detail about these changes is requested in the “Detail of changes” section.)*

There are no substantive changes between the existing regulation and the proposed regulation which could be identified, even though, as mentioned in the “Purpose” statement of this background document, several of the referenced standards have been updated to newer versions. A preliminary review of those

newer versions does not indicate that they have substantive changes from the standards used in the existing regulation.

Since this regulation is a companion regulation to the other building and fire regulations promulgated by the Board and needs to be coordinated with those regulations, and since the other building and fire regulations of the Board are concurrently undergoing regulatory actions to reference the newest available nationally recognized model codes and standards, the Board is therefore accepting comment on all provisions of this regulation.

**Issues**

*Please identify the issues associated with the proposed regulatory action, including:*

- 1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions;*
- 2) the primary advantages and disadvantages to the agency or the Commonwealth; and*
- 3) other pertinent matters of interest to the regulated community, government officials, and the public.*

*If the regulatory action poses no disadvantages to the public or the Commonwealth, please so indicate.*

The primary advantage to the public of this action is that the regulation will provide the least possible necessary regulation of the operators and owners of amusement devices while assuring the safety of the users of such devices and the general public.

There are no advantages to the Department of Housing and Community Development or to the Commonwealth resulting from this action.

There are no disadvantages to the public or to the Commonwealth resulting from this action.

**Economic impact**

*Please identify the anticipated economic impact of the proposed regulation.*

<b>Projected cost to the state to implement and enforce the proposed regulation, including (a) fund source / fund detail, and (b) a delineation of one-time versus on-going expenditures</b>	Not applicable.
<b>Projected cost of the regulation on localities</b>	Not applicable.
<b>Description of the individuals, businesses or other entities likely to be affected by the regulation</b>	Not applicable.
<b>Agency's best estimate of the number of such entities that will be affected</b>	Not applicable.
<b>Projected cost of the regulation for affected individuals, businesses, or other entities</b>	Not applicable.

The economic impact of this action is no different from the economic impact of the existing regulation since no substantive changes are proposed to the existing regulation at this time. However, as this regulation is a companion regulation to the other building and fire regulations of the Board, which are

concurrently undergoing revision to incorporate the latest nationally recognized model codes and standards, it is anticipated that the Board will receive requests during the public comment period for substantive changes to this regulation. As stated in the Agency Background Document for the NOIRA phase of this action, depending on the nature of comment received, the Board may choose to publish a revised proposed (re-proposed) regulation containing all changes to the original proposed regulation along with an additional comment period.

**Alternatives**

*Please describe any viable alternatives to the proposal considered and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the action.*

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Not applicable, as there are no substantive changes proposed to the existing regulation in this phase of this action.

**Public comment**

*Please summarize all comments received during public comment period following the publication of the NOIRA, and provide the agency response.*

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Commenter	Comment	Agency response
Not applicable.	Not applicable.	Not applicable.

The Board received no public comment concerning this action during the NOIRA period.

**Family impact**

*Please assess the impact of the proposed regulatory action on the institution of the family and family stability.*

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The Department is not aware of any potential impact of this action on the institution of the family or on family stability.

**Detail of changes**

*Please detail all changes that are being proposed and the consequences of the proposed changes. Detail all new provisions and/or all changes to existing sections.*

*If the proposed regulation is intended to replace an emergency regulation, please list separately (1) all changes between the pre-emergency regulation and the proposed regulation, and (2) only changes made since the publication of the emergency regulation.*

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For changes to existing regulations, use this chart:

Current	Proposed	Current requirement	Proposed change and rationale
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section number	new section number, if applicable		
Not applicable.	Not applicable.	Not applicable.	Not applicable.

As previously stated, there are no substantive changes proposed to the existing regulation in this phase of this action.